

DERT FUND

DRYCLEANING ENVIRONMENTAL RESPONSE TRUST FUND

2014 ANNUAL REPORT



MISSOURI
DEPARTMENT OF
NATURAL RESOURCES



HISTORY

In 2000, Senate Bill 577 established the Drycleaning Environmental Response Trust Fund, or DERT Fund, and Section 260.920, Revised Statutes of Missouri, or RSMo, authorized it. The DERT Fund provides funding for the investigation, assessment and cleanup of releases of chlorinated solvents from dry cleaning facilities. The DERT Fund is a state fund and is administered by the Missouri Department of Natural Resources' Hazardous Waste Program, according to rules published by the Hazardous Waste Management Commission. The laws and regulations governing the DERT Fund are found in Sections 260.900 to 260.965 RSMo and 10 Code of State Regulations (CSR) 25-170.010 to 10 CSR 25-17.170, respectively. In 2011, Senate Bill 135 extended the expiration date of the DERT Fund from Aug. 28, 2012, to Aug. 28, 2017.

Operators of active dry cleaning facilities are required to register with the Missouri Department of Natural Resources, as outlined in Section 260.915 RSMo. Each active and operating dry cleaning facility is required to pay an annual registration surcharge based upon the number of gallons of chlorinated solvents used during the calendar year, as outlined in Section 260.935 RSMo. This includes coin-operated dry cleaning facilities. Laundry facilities located in prisons, government entities, hotels, motels and industrial laundries are specifically exempt from the requirements of this statute. All solvent suppliers that sell or provide chlorinated solvent to a dry cleaning facility are required to pay the solvent surcharge fees to the department.

Section 260.955 RSMo, requires the department to provide an annual report to the General Assembly and the governor regarding:

- Receipts of the fund during the preceding calendar year and the sources of the receipts.
- Disbursements from the fund during the preceding calendar year and the purposes of those disbursements.
- The extent of corrective action taken during the preceding calendar year.
- The prioritization of the sites for expenditures from the fund.

DISBURSEMENTS FROM THE DERT FUND

Expenditures from the fund are used to:

1. Reimburse participants for the costs of addressing releases of chlorinated solvents from dry cleaning facilities. Participants are liable for the first \$25,000 of eligible cleanup related costs as a deductible.
2. Administer the program by collecting the surcharges and guiding and assisting the cleanup activities.

Table 1 describes the expenditures from the fund, which were prohibited until, on or after July 1, 2002, by Section 260.925 RSMo. Reimbursements for eligible environmental cleanup costs were not made until the regulations went into effect on May 30, 2006.

TABLE 1: EXPENDITURES OF THE DERT FUND

| Calendar Year ⁽¹⁾ | Salaries & Wages | Expense & Equipment | Fringe, etc. ⁽⁴⁾ | Reimbursements ⁽⁵⁾ | Total Costs |
|------------------------------|------------------|---------------------|-----------------------------|-------------------------------|-------------|
| 2000 ⁽²⁾ | \$0 | \$0 | \$0 | \$0 | \$0 |
| 2001 ⁽²⁾ | \$0 | \$0 | \$0 | \$0 | \$0 |
| 2002 ⁽²⁾ | \$1,163 | \$0 | \$2,350 ⁽³⁾ | \$0 | \$3,513 |
| 2003 | \$77,271 | \$14,995 | \$35,655 | \$0 | \$127,921 |
| 2004 | \$106,083 | \$59,642 | \$73,437 | \$0 | \$239,162 |
| 2005 | \$99,583 | \$63,909 | \$92,528 | \$0 | \$256,020 |
| 2006 | \$187,488 | \$145,789 | \$140,850 | \$176,031 | \$650,158 |
| 2007 | \$186,019 | \$64,858 | \$155,026 | \$258,785 | \$664,688 |
| 2008 | \$192,387 | \$25,814 | \$171,884 | \$140,000 | \$530,085 |
| 2009 | \$183,108 | \$9,316 | \$200,064 | \$456,733 | \$849,221 |
| 2010 | \$178,337 | \$8,450 | \$172,540 | \$303,651 | \$662,978 |
| 2011 | \$137,229 | \$8,210 | \$143,355 | \$284,689 | \$573,483 |
| 2012 | \$104,777 | \$4,086 | \$158,751 | \$495,468 | \$763,082 |
| 2013 | \$83,249 | \$3,729 | \$128,112 | \$306,376 | \$521,466 |
| 2014 | \$86,177 | \$4,795 | \$91,410 | \$244,173 | \$426,555 |
| Totals | \$1,622,871 | \$413,593 | \$1,565,962 | \$2,665,906 | \$6,268,332 |

⁽¹⁾ Source: SAM II Data Warehouse Information.

⁽²⁾ RSMo, Section 260.925 prohibited expenditures from the DERT Fund until on or after July 1, 2002.

⁽³⁾ House Bill 1115, Section 15.220, RSMo, authorized a transfer of \$1,289 out of the State treasury on May 6, 2002, chargeable to various funds, such amounts as are necessary for allocation of costs to other funds in support of the state's central services, to the general revenue fund.

⁽⁴⁾ Fringe amount includes Old Age Survivors and Disability Program, retirement system, deferred comp, Missouri Consolidated Health Care Plan, Cost Allocation Plan (OA), Cost Allocation (DNR) State Office Bldg Maintenance and Repair, etc.

⁽⁵⁾ Reimbursements were not made until the regulations went into effect on May 30, 2006.

RECEIPTS TO THE DERT FUND

The Hazardous Waste Program is responsible for the collection of all applicable surcharges from dry cleaning facilities and solvent suppliers. There are two main sources of revenue for the fund. The first is a dry cleaning facility annual registration surcharge paid by owners and operators of dry cleaning facilities (\$500, \$1,000 or \$1,500 based on chlorinated solvent used during the calendar year). The second is a solvent surcharge paid by the solvent suppliers on a quarterly basis of \$8 per gallon of perchloroethylene, trichloroethylene and other chlorinated solvents sold.

TABLE 2: 2014 DRY CLEANER FACILITY ANNUAL REGISTRATION SURCHARGE

| Size of Facility | Facilities Registering by 5/1/15 | Gallons of Solvent Used | Annual Registration Fee |
|------------------|----------------------------------|-------------------------|-------------------------|
| Small | 89 | 0 to 140 | \$500 |
| Medium | 8 | 141 to 360 | \$1,000 |
| Large | 3 | >360 | \$1,500 |

Table 3 describes the surcharge collections. The collection of the registration surcharges began on April 1, 2001. The collection of the solvent surcharge began with the April 1, 2001, to June 30, 2001, quarter.

TABLE 3 - RECEIPTS TO THE DERT FUND⁽¹⁾

| Calendar Year | Registration Surcharge | Solvent Surcharge | Interest & Penalties | Totals |
|---------------|------------------------|--------------------|----------------------|--------------------------|
| 2000 | \$0 | \$0 | \$0 | \$0 |
| 2001 | \$221,500 | \$170,208 | \$5,995 | \$397,703 |
| 2002 | \$222,150 | \$435,859 | \$17,886 | \$675,895 |
| 2003 | \$303,126 | \$427,880 | \$26,892 | \$757,898 |
| 2004 | \$319,488 | \$409,293 | \$43,178 | \$771,959 |
| 2005 | \$234,150 | \$367,598 | \$73,595 | \$675,433 ⁽²⁾ |
| 2006 | \$204,993 | \$308,678 | \$121,077 | \$635,248 ⁽³⁾ |
| 2007 | \$185,371 | \$259,175 | \$138,931 | \$583,477 |
| 2008 | \$191,888 | \$237,874 | \$132,377 | \$562,139 |
| 2009 | \$154,991 | \$182,459 | \$54,143 | \$391,598 ⁽⁴⁾ |
| 2010 | \$135,573 | \$173,448 | \$28,387 | \$337,408 |
| 2011 | \$131,706 | \$130,997 | \$17,575 | \$280,312 ⁽⁵⁾ |
| 2012 | \$113,415 | \$105,978 | \$13,029 | \$233,442 ⁽⁶⁾ |
| 2013 | \$141,214 | \$43,334 | \$13,708 | \$198,256 |
| 2014 | \$76,385 | \$68,847 | \$7,692 | \$153,637 ⁽⁷⁾ |
| Totals | \$2,635,950 | \$3,321,628 | \$694,465 | \$6,654,406 |

⁽¹⁾ Source: SAM II Data Warehouse Information.⁽²⁾ 2005 total includes a \$90 refund to the fund.⁽³⁾ 2006 total includes a \$500 transfer in.⁽⁴⁾ 2009 total includes a \$5 vendor refund to the fund.⁽⁵⁾ 2011 total includes a \$34 overpayment.⁽⁶⁾ 2012 total includes a \$1,020 transfer in.⁽⁷⁾ 2014 total includes \$713 in recovery costs.

PRIORITIZATION OF SITES FOR EXPENDITURES FROM THE FUND

10 CSR 25-17.140 allocates DERT Fund monies to prioritized sites in the following proportions: high priority sites: 60 percent; medium priority sites: 30 percent; low priority sites: 10 percent. In any fiscal year, if the funding allocation in any priority category is not used, those funds may be reallocated to other priority categories, starting with any high priority sites and followed by medium and then low priority sites.

Sites applying to the program must submit the results of one soil, groundwater or surface water sample that exhibits contamination of dry cleaner solvent that is in excess of the department cleanup levels. The initial assessment will allow the department to determine the eligibility of the site in the fund. Some sites will provide enough information during the application process to receive a ranking score. Other sites will require additional information before a ranking score can be determined.

If the site has not provided enough information to have a ranking score determined, the department will direct the owner or operator to conduct the necessary assessments to determine a ranking score. The ranking score is based on such factors as environmental contamination, potential economics, potential receptors, risk-based cleanup parameters, site history, threat to drinking water sources, threat to off-site properties, etc. A copy of the prioritization form is available on the department's DERT Fund website at <http://dnr.mo.gov/env/hwp/dert/hwpvcpc-dryclean.htm>.

On May 30, 2006, the DERT Fund began accepting applications for enrollment into the fund for oversight and reimbursement of investigation and cleanup activities. By the end of 2014, the fund had received applications for 42 sites. Five of these sites received a certification of completion letter from the Brownfields/Voluntary Cleanup Program, or BVCP, and enrolled into the fund for reimbursement of eligible costs. Fourteen of the 42 sites transferred from the BVCP to the DERT Fund during 2006.

By the end of 2014, the DERT Fund had issued 15 certification of completion letters and reimbursed \$2,665,906 in eligible costs to participants (See Table 1).

Annual revenues to the DERT fund continue to decline from a high of \$771,959, collected during calendar year 2004, to a low of \$153,637, collected during calendar year 2014. The fund's ending balance as of Dec. 31, 2014, was \$386,073.68. Given the continued decline in revenues, the possibility exists the fund may become insolvent before its sunset date of Aug. 28, 2017. This decline in revenues can be attributed to several factors including: facilities switching to non-chlorinated solvents therefore, they are not being required to register and pay surcharges; newer dry cleaning equipment/machines are more efficient and use less solvent; facilities are consolidating cleaning operations to one location; and facilities have gone out of business.

During calendar year 2012, a liability analysis was conducted on the DERT Fund. From that analysis, the department determined that reimbursement of future costs for the investigation and remediation of contaminated dry cleaning sites may be limited or impossible. Reimbursement funds are not guaranteed for any work plans approved after Sept. 3, 2012,

and the DERT Fund is not accepting any new applications for enrollment to the DERT fund as of Sept. 3, 2012. Notices regarding the DERT Fund status were mailed in September 2012 to the DERT Fund participants and their consultants, the DERT Fund stakeholder group, and all active dry cleaners in Missouri that use chlorinated solvents.

TABLE 4 - DERT FUND SITES

| Site Name and City | Priority | | | Amount Reimbursed | Comments |
|---|----------|------|-----|-------------------|--------------------------------------|
| | High | Med. | Low | | |
| AG Cleaners, Kirkwood | | | X | \$18,187 | Completion Letter issued on 12/2/13 |
| Ambassador Cleaners, Ellisville | | | X | | |
| American Cleaners, Ballwin | | X | | | |
| American Cleaners - Dorsett Road, Maryland Heights | | | X | \$5,090 | Completion Letter issued 5/21/09 |
| American Cleaners - Fenton Plaza, Fenton | | X | | \$108,037 | Completion Letter issued on 4/22/13 |
| American Cleaners - Mid Rivers Mall, St. Peters* | | X | | \$144,486 | Reimbursements completed |
| American Cleaners - Natural Bridge, Bridgeton | | X | | \$12,264 | Completion Letter issued 11/29/10 |
| American Cleaners - Southroads, St. Louis | | X | | \$53,547 | Completion Letter issued 6/11/09 |
| American Cleaners, University City | | X | | \$61,173 | |
| A to Z Auto Center - Crestwood | | | X | | |
| Bright and Free Laundry & Dry Cleaners - St. Louis | | | X | \$26,703 | Completion Letter issued 7/29/13 |
| Busy Bee Laundry, Rolla | X | | | \$391,594 | |
| Charter Dry Cleaning - Ellisville | | X | | \$18,477 | Completion Letter issued 4/9/13 |
| Clayton Cleaners, St. Louis | X | | | \$60,089 | |
| Colonial Cleaners - Arsenal Street, St. Louis | X | | | \$30,400 | |
| Colonial Cleaners - Brentwood Blvd., St. Louis | X | | | | Completion Letter issued 7/2/08 |
| Community Laundromat, Ava | X | | | | Terminated by DERT |
| Cypress Village Shopping Center, St. Ann* | | X | | \$366,200 | Reimbursements completed |
| Davis Cleaners, Columbia | | | | | |
| First Capitol Cleaners, St. Charles | X | | | \$43,764 | |
| Foster's Cleaners, Blue Springs | | | X | \$17,353 | Completion Letter issued 6/18/09 |
| Frontenac Cleaners - West End, St. Louis | | X | | | Completion Letter issued 5/14/08 |
| Grandview Plaza, Grandview | | | X | \$20,050 | |
| Kingshighway Retail Center, Sikeston | | X | | \$44,498 | |
| Ma Ma Bessie's Cleaners, Columbia | | | | | |
| McDonald's State Line, Kansas City | | X | | | Completion Letter issued 7/26/12 |
| Mission River/Antioch Cleaners, Kansas City | | X | | \$45,011 | |
| Paramount Cleaners, Florissant* | | X | | \$42,035 | Reimbursements completed |
| Park Lane Cleaners, Chillicothe | | | X | \$21,837 | |
| Plaza Ford Ideal Laundry & Dry Cleaners Inc., Kansas City | X | | | \$40,197 | |
| Premier Dry Cleaners of KC, Kansas City | | | X | \$22,797 | Completion Letter issued 9/22/11 |
| Regal Cleaners, University City | | X | | \$8,375 | |
| Shamrock Cleaners, Kansas City | | | | | |
| Stanford Saper Cleaners, Kansas City* | | | X | | No claims filed |
| Staten Island Cleaners, Florissant | X | | | \$203,562 | Completion Letter issued 12/30/08 |
| Tri-States Service Company - Boonville Ave., Springfield | X | | | \$391,528 | |
| Tri-States Service Company - East Trafficway, Springfield | | X | | \$391,021 | |
| U.S. Cleaners - St. Louis | | | | | |
| VIP Cleaners, St. Peters | | | X | | Completion Letter issued on 1/13/10 |
| West Gate Cleaners, St. Louis | | X | | | Completion Letter issued on 10/19/07 |
| Yorkshire Cleaners, Marlborough | X | | | \$70,309 | |
| Zehrt Printing, St. Louis* | | X | | \$7,352 | Reimbursements completed |

*Reimbursement only, site received certification of completion letter from Brownfields/Voluntary Cleanup Program.



TABLE 5: CORRECTIVE ACTION CONDUCTED IN 2014

| Site Name and City | Corrective Action Conducted |
|---|--|
| Ambassador Cleaners, Ellisville | Groundwater monitoring to determine plume stability |
| American Cleaners, Ballwin | Installation of additional wells and sampling to determine extent of contamination |
| Tri-States Service Company, Springfield | Installation of additional wells and sampling to determine extent of contamination |
| U.S. Cleaners, St. Louis | Groundwater monitoring |

COMPLIANCE WITH SURCHARGES

The two main sources of revenue for the fund are the dry cleaning facility annual registration surcharge and the solvent surcharge. State law requires that owners and operators of dry cleaning facilities pay the annual registration and the solvent suppliers to pay the solvent surcharge on quarterly basis.

When a facility or solvent supplier is not in compliance with the law, the DERT Fund uses the department's conference, conciliation and persuasion process to return them to compliance. In 2006, the department's Hazardous Waste Program began referring facilities and solvent suppliers that continued to fail compliance to the Attorney General's Office.

Active and abandoned dry cleaners that are eligible for the fund must be in compliance with all applicable environmental laws in order to receive funding for environmental cleanup from the fund. Consequently, it is in everyone's interest to assist businesses in returning to compliance with the law so they are covered by the fund.

On Sept. 1, 2008, the DERT Fund began notifying the registered solvent suppliers of the active dry cleaning facilities that have not paid their required registration surcharges. According to 10 CSR 25-17.030(2)(G) "a solvent supplier shall not provide dry cleaning solvents to an active dry cleaning facility that has not paid its annual dry cleaning facility registration surcharge."

A solvent supplier who knowingly supplies solvent to a dry cleaning facility that is not in compliance with payment of the surcharges will be in violation of the above regulation. The DERT Fund also posts a listing of these dry cleaning facilities on its webpage similar to that for solvent suppliers who do not pay the required solvent surcharges.

Table 6 indicates the compliance rate for annual dry cleaning facility registration surcharges. Failure to pay the registration surcharges represents approximately 90 percent of the violations that occur in the DERT Fund.

TABLE 6: DRY CLEANING FACILITY REGISTRATION COMPLIANCE

| Calendar Year | No. of Active Facilities | Facilities Submitting Registration Form and Surcharges by 5/1/15 | Percent Compliance with Annual Registration |
|---------------|--------------------------|--|---|
| 2014 | 136 | 100 | 74.0 |

TABLE 7: COMPLIANCE/ENFORCEMENT ISSUES WITH DRY CLEANING FACILITIES

| Calendar Year | Facilities Issued a NOV | Facilities Referred to Compliance/ Enforcement | Facilities Referred to AGO | Facilities Returned to Compliance |
|---------------|-------------------------|--|----------------------------|-----------------------------------|
| 2014 | 27 | 18 | 1 | 125 |

TABLE 8: SOLVENT SUPPLIERS QUARTERLY REPORTING COMPLIANCE

| Calendar Year | No. of Active Solvent Suppliers | Suppliers Submitting Quarterly Reports and Surcharges on Time | Percent Compliance Quarterly Reporting |
|---------------|---------------------------------|---|--|
| 2014 | 11 | 8 | 73.0 |

TABLE 9: COMPLIANCE/ENFORCEMENT ISSUES WITH SOLVENT SUPPLIERS

| Calendar Year | Suppliers Issued a NOV | Suppliers Referred to Compliance/Enforcement | Suppliers Referred to AGO | Suppliers Returned to Compliance |
|---------------|------------------------|--|---------------------------|----------------------------------|
| 2014 | 0 | 0 | 0 | 2 |

OUTREACH ACTIVITIES

The department has additional information, publications, forms and answers to questions about the fund available on the department's website at www.dnr.mo.gov/env/hwp/dert/hwpvcp-dryclean.htm.

The department is a member of the State Coalition for the Remediation of Drycleaners. The coalition is comprised of states that have formal dry cleaner cleanup programs. The U.S. Environmental Protection Agency's Technology Innovation Office funds this coalition. The coalition conducts conference calls every other month and holds an annual meeting to discuss issues related to dry cleaner program administration and technical site investigation or cleanup topics. The coalition serves as an invaluable asset for Missouri as the department manages the fund and provides oversight of assessments and cleanup of dry cleaner sites.

REFERENCES

State Program To Clean Up Drycleaners. Schmidt, Robin, R. DeZeeuw, L. Henning and D. Tripler. June 2001. State Coalition for Remediation of Drycleaners. www.drycleancoalition.org/survey/

Departmental Missouri Risk-Based Corrective Action (MRBCA) Technical Guidance. April 2006. Missouri Department of Natural Resources. www.dnr.mo.gov/env/hwp/mrbca/mrbca.htm.

CONTACT INFORMATION

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